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Department of Environmental Quality
Office of Solid and Hazardous Waste
Hazardous Waste Division

Notice of Substantive Changes to HW057

Under the authority of the Louisiana Environmental Quality Act, La. R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, La. R.S. 49:950, et seq., the secretary gives notice that the agency is seeking to incorporate substantive changes to the proposed amendments to the Hazardous Waste Division regulations, LAC 33:V.105.M and Chapter 49.Appendix E (Log # HW057), which were originally proposed on February 20, 1997.

This proposed rule contains substantive changes to proposed rule HW057, to grant Marathon Oil's petition, specifically in LAC 33:V.Chapter 49.Appendix E.Table 1. The substantive changes affect the proposed reference of constituents of concern for EPA hazardous waste numbers K048-K051, F037, and F038 identified in the first paragraph of LAC 33:V.Chapter 49.Appendix E.Table 1 and the proposed delisting levels listed in conditions (3)(A) and (3)(B). Changes are also made to complete the listing of Marathon's optional testing requirements in conditions (4) and (4)(A) of the proposed exclusion conditions.

This proposed substantive change meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

A public hearing on the substantive changes will be held on May 29, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed substantive changes. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed substantive changes. Commentors should reference the proposed substantive changes by HW057S. Such comments should be submitted no later than June 5, 1997, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Post Office Box 82282, Baton Rouge, LA 70810 or to fax number (504) 765-0486. Copies of the proposed substantive changes can be purchased at the above referenced address. You may contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of HW057S.

HW057 and HW057S are available for inspection at the following DEQ office locations from 8:00 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, 4th floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508. These regulations are also available on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

H. M. Strong
Assistant Secretary

Title 33**ENVIRONMENTAL QUALITY****Part V. Hazardous Waste and Hazardous Materials****Subpart 1. Department of Environmental Quality—Hazardous Waste****Chapter 1. General Provisions and Definitions****§105. Program Scope**

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility of TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including "solid waste" and "hazardous waste", appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

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[See Prior Text in A-M.1]

a. the petitioner must demonstrate to the satisfaction of the administrative authority that the waste produced by a particular generating facility does not meet any of the criteria under which the waste was listed as a hazardous or an acutely hazardous waste; and

b. based on a complete application, the administrative authority must determine, where he has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A

waste which is so excluded, however, still may be a hazardous waste by operation of LAC 33:V.4903-; and

c. facilities that have successfully petitioned are listed in LAC 33:V.Chapter 49.Appendix E.

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[See Prior Text in M.2-M.10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), LR 23:**.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 49. Lists of Hazardous Wastes

APPENDIX E - WASTES EXCLUDED UNDER LAC 33:V.105.MTable 1 - Wastes Excluded

<u>Facility</u>	<u>Address</u>	<u>Waste Description</u>
<u>Marathon Oil Co.</u>	<u>Garyville, LA</u>	<u>Residual solids generated from the thermal desorption treatment of the following wastes: EPA Hazardous Waste No. K048, dissolved air flotation (DAF) float; K049, slop oil emulsion solids; K050, heat exchanger bundle cleaning sludge; K051, American Petroleum Institute (API) separator sludge; F037, primary oil/water/solids separation sludge; and F038, secondary emulsified oil/water/solids separation sludge. The constituents of concern for K048-K050K051-F037, and F038 wastes are listed as hexavalent chromium and lead (see LAC 33:V. 4901). The constituents of concern for F037 and F038 wastes are listed as hexavalent chromium, lead, benzene, benzo(a)pyrene, and chrysene</u>
<u>Facility</u>	<u>Address</u>	<u>Waste Description</u>

		<p><u>(See LAC 33:V.4901). Marathon must implement a testing program that meets the following conditions for the exclusion to be valid:</u></p> <p><u>(1) - Testing:</u></p> <p><u>Sample collection and analyzes, including quality control (QC) procedures, must be performed according to methodologies described in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods”, EPA Publication Number SW-846, as incorporated by reference in LAC 33:V.110. If the department judges the desorption process to be effective under the operating conditions used during the initial verification testing, Marathon may replace the testing required in condition (1)(A) with the testing required in condition (1)(B). Marathon must continue to test as specified in condition (1)(A) until and unless notified by the department in writing that testing in condition (1)(A) may be replaced by condition (1)(B), or that testing</u></p>
<u>Facility</u>	<u>Address</u>	<u>Waste Description</u>

		<p><u>requirements may be reduced or terminated as described in conditions(1)(C) and (1)(D) to the extent directed by the department.</u></p> <p><u>(1)(A) - Initial Verification Testing:</u></p> <p><u>During at least the first four weekly operating periods of full-scale operation of the thermal desorption unit, Marathon must monitor the operating conditions of the thermal desorption unit to maintain a minimum residual solids temperature throughout the high temperature unit of 870 ° F. The residual solids must be analyzed as weekly composites. The weekly composites must be composed of a minimum of two representative grab samples from each operating day during each weekly period of operation. The samples must be analyzed for the constituents listed in condition (3) prior to disposal of the residual solids. Marathon must report the operational and analytical test data, including</u></p>
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Facility	Address	Waste Description
		<p><u>quality control information, obtained during this initial period, no later than 90 days after initiating full-scale processing.</u></p> <p><u>(1)(B) - Subsequent Verification Testing:</u></p> <p><u>Following notification of approval by the department, Marathon may substitute the following testing conditions for those in condition (1)(A). Marathon must continue to monitor operating conditions and analyze samples representative of each month of operation. The samples must be composed of eight representative samples from randomly chosen operating days during the four week period of operation of each month. These monthly representative composite samples must be analyzed for the constituents listed in condition (3) prior to the disposal of the residual solids. Marathon may, at its discretion, analyze composite samples gathered more frequently to demonstrate that smaller batches of</u></p>

Facility	Address	Waste Description
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		<p><u>waste are nonhazardous.</u></p> <p><u>(1)(C) - Termination of Monthly Organic Testing:</u></p> <p><u>Marathon must continue to monitor unit</u></p> <p><u>operating conditions and perform testing as</u></p> <p><u>required under condition (1)(B), for the</u></p> <p><u>constituents listed in condition (3)(B), until the</u></p> <p><u>analyzes submitted under condition (1)(B) show</u></p> <p><u>a minimum of three consecutive monthly</u></p> <p><u>representative samples with levels of</u></p> <p><u>constituents significantly below delisting levels</u></p> <p><u>listed in condition (3)(B). Following notification</u></p> <p><u>of approval by the department, Marathon may</u></p> <p><u>terminate monthly testing for the organic</u></p> <p><u>constituents found in condition (3)(B).</u></p> <p><u>Following termination of monthly testing for</u></p> <p><u>organic constituents, Marathon must test a</u></p> <p><u>representative composite sample, composited</u></p> <p><u>over a one week time period, for all constituents</u></p> <p><u>listed in condition (3)(B) on a quarterly basis. If</u></p> <p><u>delisting levels for any organic constituents</u></p> <p><u>listed</u></p>
<u>Facility</u>	<u>Address</u>	<u>Waste Description</u>

		<p><u>in condition (3)(B) are exceeded in the quarterly sample, Marathon must reinstitute testing as required in condition (1)(B).</u></p> <p><u>(1)(D) - Termination of Monthly Inorganic Testing:</u></p> <p><u>Marathon must continue to monitor unit operating conditions and perform testing as required under condition (1)(B), for the constituents listed in condition (3)(A), until the analyzes submitted under condition (1)(B) show a minimum of three consecutive monthly representative samples with levels of constituents significantly below delisting levels listed in condition (3)(A). Following notification of approval by the department, Marathon may terminate monthly testing for the inorganic constituents found in condition (3)(A).</u></p> <p><u>Following termination of monthly testing for inorganic constituents, Marathon must test a representative composite sample, composited</u></p>
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<u>Facility</u>	<u>Address</u>	<u>Waste Description</u>
		<p><u>over a one week time period, for all constituents listed in condition (3)(A) on a quarterly basis. If delisting levels for any inorganic constituents listed in condition (3)(A) are exceeded in the quarterly sample, Marathon must reinstitute testing as required in condition (1)(B).</u></p> <p><u>(2) - Waste Holding and Handling:</u></p> <p><u>Marathon must store as hazardous wastes all residual solids generated until each batch has completed verification testing, as specified in conditions (1)(A) - (1)(D), and has satisfied the delisting criteria, as specified in condition (3). If the levels of constituents in the samples of residual solids are below all of the applicable levels set forth in condition (3), then the residual solids thereby become nonhazardous solid wastes and may be managed and disposed of in accordance with all applicable solid waste regulations. If constituent levels in any weekly composite or other representative sample equal</u></p> <p><u>or</u></p>
<u>Facility</u>	<u>Address</u>	<u>Waste Description</u>

		<p><u>exceed any of the delisting levels set in condition</u></p> <p><u>(3), the residual solids generated during the</u></p> <p><u>corresponding period must be retreated to meet</u></p> <p><u>the delisting levels or managed and disposed of</u></p> <p><u>in accordance with subtitle C of RCRA.</u></p> <p><u>(3) - Delisting Levels:</u></p> <p><u>The following delisting levels have been</u></p> <p><u>determined safe by taking into account health-</u></p> <p><u>based criteria and limits of detection.</u></p> <p><u>Concentrations in conditions (3)(A) and (3)(B)</u></p> <p><u>must be measured in the extract from the</u></p> <p><u>samples by the method specified in LAC 33:V.</u></p> <p><u>4903.E. Concentrations in the extract must be</u></p> <p><u>less than the following levels (all units are</u></p> <p><u>milligrams per liter):</u></p> <p><u>(3)(A) - Inorganic Constituents:</u></p> <p><u>Antimony - 0.22; Arsenic - 0.40; Barium - 3672;</u></p> <p><u>Beryllium - 0.00300.14; Cadmium - 0.18;</u></p> <p><u>Chromium - 1.83.6; Lead - 0.54; Mercury -</u></p> <p><u>0.072; Nickel - 2.53.6; Selenium - 0.361.8;</u></p>
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Facility	Address	Waste Description
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		<p><u>Silver - 1.87.2; Vanadium - 7.2.</u></p> <p><u>(3)(B) - Organic Constituents:</u></p> <p><u>Acenaphthene - 72; Benzene - 0.0130.18;</u></p> <p><u>Benzo(a)anthracene - 0.050; Benzo(a)pyrene -</u></p> <p><u>0.050; Benzo(b)fluoranthrene - 0.050; Bis(2-</u></p> <p><u>ethylhexyl)phthalate - 0.110.22; Chrysene -</u></p> <p><u>0.330.05; Ethylbenzene - 25; Fluoranthrene -</u></p> <p><u>3672; Fluorene - 3672; Napthalene - 5436;</u></p> <p><u>Pyrene - 3672; Toluene - 2736.</u></p> <p><u>(4) - Changes in Operating Conditions:</u></p> <p><u>After completing the initial verification test</u></p> <p><u>period in condition (1)(A), if Marathon</u></p> <p><u>significantly changes the operating conditions</u></p> <p><u>specified in the petition, Marathon must notify</u></p> <p><u>the department in writing. Following receipt of</u></p> <p><u>written approval by the department, Marathon</u></p> <p><u>must reinstitute the testing required in condition</u></p> <p><u>(1)(A) for a minimum of four weekly operating</u></p> <p><u>periods. Marathon must report unit operating</u></p> <p><u>conditions and test data required by condition</u></p>
<u>Facility</u>	<u>Address</u>	<u>Waste Description</u>

		<p><u>(1)(A), including quality control data, obtained during this period no later than 60 days after the changes take place. Following written notification by the department, Marathon may replace testing condition (1)(A) with (1)(B); or reduce or terminate testing requirements as described in conditions (1)(C) and (1)(D) to the extent directed by the department. Marathon must fulfill all other requirements in condition (1).</u></p> <p><u>(4)(A) - Processing Equipment:</u></p> <p><u>Marathon may elect to change thermal desorption processing equipment based on operational performance and economic considerations. In the event that Marathon changes operating equipment, i.e., generic thermal desorption units, Marathon must reinstitute processing and initiate testing required in condition (1)(A) for a minimum of four weekly operating periods. Marathon must report unit operating conditions</u></p>
<u>Facility</u>	<u>Address</u>	<u>Waste Description</u>

		<p><u>and test data required in condition (1)(A),</u></p> <p><u>including quality control data, obtained during</u></p> <p><u>this period no later than 60 days after the</u></p> <p><u>changes take place. Following written</u></p> <p><u>notification by the department, Marathon may</u></p> <p><u>replace testing condition (1)(A) with (1)(B)-, or</u></p> <p><u>reduce or terminate testing requirements as</u></p> <p><u>described in conditions (1)(C) and (1)(D) to the</u></p> <p><u>extent directed by the department. Marathon</u></p> <p><u>must fulfill all other requirements in condition</u></p> <p><u>(1).</u></p> <p><u>(4)(B) - Batch Processing:</u></p> <p><u>Marathon may periodically elect to change</u></p> <p><u>operating conditions to accommodate batch</u></p> <p><u>processing of single event waste generations.</u></p> <p><u>In the event that Marathon initiates batch</u></p> <p><u>processing and changes the operating</u></p> <p><u>conditions established under condition (1).</u></p> <p><u>Marathon must reinstitute the testing required in</u></p> <p><u>condition (1)(A) during such batch processing</u></p> <p><u>events and monitor unit operating conditions</u></p> <p><u>and perform testing required</u></p>
<u>Facility</u>	<u>Address</u>	<u>Waste Description</u>

		<p><u>by condition (1)(A), as appropriate. Following the completion of batch processing operations, Marathon must return to the operating conditions applicable prior to initiation of the batch processing and may return to the testing conditions that were applicable prior to the initiation of the batch processing activities.</u></p> <p><u>(5) - Data Submittal:</u></p> <p><u>Marathon must notify the department in writing at least two weeks prior to initiating condition (1)(A). The data obtained during condition (1)(A) must be submitted to the Assistant Secretary of the Office of Solid and Hazardous Waste, LDEQ, 7290 Bluebonnet Road, Baton Rouge, LA 70810, within the specified 90 days. Records of operating conditions and analytical data from condition (1) must be compiled, summarized, and maintained on site for a minimum of five years. These records and data must be furnished upon request by the</u></p>
<u>Facility</u>	<u>Address</u>	<u>Waste Description</u>

		<p><u>department and made available for inspection.</u></p> <p><u>Failure to submit the required data within the</u> <u>specified time period or failure to maintain the</u> <u>required records on-site for the specified time</u> <u>will be considered by the department, at its</u> <u>discretion, sufficient basis to revoke the</u> <u>exclusion. All data must be accompanied by a</u> <u>signed copy of the following certification</u> <u>statement to attest to the truth and accuracy of</u> <u>the data submitted:</u></p> <p><u>“I certify under penalty of law that I have</u> <u>personally examined and am familiar with the</u> <u>information submitted in this demonstration and all</u> <u>attached documents, and that, based on my inquiry of</u> <u>those individuals immediately responsible for obtaining</u> <u>the information, I believe that the submitted</u> <u>information is true, accurate, and complete. I am</u> <u>aware that there are significant penalties for submitting</u> <u>false information, including the possibility of fine and</u> <u>imprisonment.</u></p>
<u>Facility</u>	<u>Address</u>	<u>Waste Description</u>

		<p><u>In the event that any of this information is determined by the department, in its sole discretion, to be false, inaccurate, or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had been in effect.”</u></p>
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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:**